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SOUTHWEST JORDAN VALLEY
GROUND WATER REMEDIATION PROJECT
PUBLIC HEARING

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Wednesday, July 14, 2004, 6:30 p.m.

South Jordan City Council Chambers
1600 West Towne Center
South Jordan, Utah

Reporter: Peggy Grover, RMR
Notary Public in and for the State of Utah

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 Paula Doughty

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1 SOUTH JORDAN, UTAH, WEDNESDAY, JULY 14, 2004, 6:30 P.M.

2 DR. NIELSON: At this time I would like to begin
3 the public hearing regarding the Southwest Jordan Valley
4 Groundwater Remediation Project and I would like to
5 begin by welcoming you all here this evening and
6 thanking you for taking time to participate and share
7 your comments and ideas with us regarding this
8 groundwater clean-up proposal.

9 For anyone who has not, I would like to
10 remind you that you have an opportunity to sign in at
11 the table right outside of the door there. There is an
12 agenda and also a fact sheet on this project.

13 And I would like to take a moment to
14 introduce the individuals who are here with me this
15 evening to hear public comment and participate as part
16 of this hearing.

17 On my left is Richard Bay with the Jordan
18 Valley Water Conservancy District, and on my right,
19 Paula Doughty with Kennecott Utah Copper Corporation.
20 Also in the audience is Doug Bacon of the Department of
21 Environment Quality, Division of Environmental Response
22 and Remediation staff and the co-chair of the Technical
23 Review Committee for the South End Remediation that is
24 ongoing at Kennecott, and also Kelly Payne with
25 Kennecott Utah Copper Corporation and, Kelly, you are

the other co-chair, I believe.

MR. PAYNE: Yes.

DR. NIELSON: The Technical Review Committee for the South End. As many of you know, last fall the public was provided an opportunity to give feedback to the Trustee of the Natural Resources Damage Claim Project on a proposal that Kennecott and the District had developed to clean up contamination related to groundwater in the southwest part of the Jordan Valley. We received considerable public comment on the initial proposal and after considering that feedback, both during the public comment period and later from the Stakeholder Forum that was established, the District and Kennecott determined to revise the proposal for the clean-up and treatment of groundwater. We are now in a reopened public comment period on that proposal to address the changes that have been proposed by Kennecott and Jordan Valley. In brief, those changes are that Zone B Lost Use operations could be addressed by revised options for managing the Reverse Osmosis concentrates in the water treatment and that there would be no discharge to the Jordan River. In addition to those changes and our new proposal, there has also been an increased opportunity for public involvement, both through a Stakeholder Forum which was established earlier this

1 year to facilitate review and discussion and feedback
2 regarding issues on groundwater cleanup and also the
3 separate work that is going forward through the
4 Department of Environmental Quality's Division of Water
5 Quality. There are a number of other interested parties
6 right now in a work group to establish a process for
7 setting a numeric standard initially for selenium for
8 the Great Salt Lake. This is the first time that we will
9 have numeric standards for the Great Salt Lake. Selenium
10 is the first one that will be worked on but there will
11 be other chemicals dealt with later in that process and
12 there will be more formal process announced very soon as
13 the work group considers options and then brings that to
14 a larger stakeholder body.

15 As I indicated, this evening we are going to
16 be receiving public comment on the record regarding the
17 changes to the proposal and provide the opportunity for
18 you to share your comments and perspectives with us.
19 This public comment period began on the 18th of June and
20 it runs through August the 2nd. This is the only public
21 hearing on the record that has been scheduled but we
22 have had informal meetings with interest groups and will
23 continue to do that, answer questions and provide
24 information during the remainder of the comment period.

25 At this point I would like to turn the time

1 to Richard Bay to briefly describe to you the options
2 that Jordan Valley is proposing for changes to treatment
3 of the Zone B Lost Use treatment plant and Zone B
4 groundwater aquifer. And so without further comment,
5 Richard. And if you will turn your attention to the
6 presentation, after Richard finishes his presentation
7 there will be an opportunity for any questions to
8 clarify what Richard has presented. Those are not part
9 of the public comments, so I would like to ask you to
10 keep those brief and of a clarifying nature and after
11 that we will go immediately to comment on the record.

12 MR. BAY: Thank you, Dianne. This diagram is
13 one that we have seen before. There is no change here
14 except the reminder that the western area of groundwater
15 contamination shown here we call Zone A and the eastern
16 area, generally the South Jordan area, Zone B. There is
17 also no change in the facilities from what we have
18 discussed in the past -- the extraction wells, and the
19 treatment plant in the western Zone A, and the seven
20 deep extraction wells on 27th and 3200 West in South
21 Jordan and the five on 13th West in Zone B north of the
22 treatment plant will be constructed. Some water will be
23 from the shallow wells. The number of shallow wells
24 will change as I will show you. The changes revolve
25 around the treatment process that will demineralize the

1 water and remove the sulfate and any contaminants. And
2 here is an example of a Reverse Osmosis treatment plant.
3 A synthetic membrane spirals around inside these
4 pressure vessels and the water passes through those to
5 demineralize.

6 As I show you the changes, those changes all
7 have to do with one of the two streams coming out of the
8 Reverse Osmosis treatment with this box representing
9 that treatment process. The groundwater coming into the
10 plant is deep water. The membranes separate the water
11 coming into the plant into two streams: One the product
12 water for drinking water constituting the majority of
13 the deep water. (There is no change here; the changes
14 have to do with this stream) the byproduct water,
15 representing 15 to 20 percent generally of the deep
16 water coming into the plant. And I will show you the
17 proposals that have changed for this byproduct water
18 disposal.

19 This map shows the Zone B and lost use
20 treatment plant locations in West Jordan about 8200
21 South and 13th West and it shows in that a pipeline that
22 would be the discharge pipeline conveying that byproduct
23 stream. The proposal will have a pipeline coming
24 northward generally on 13th West to about 13th South and
25 westward discharging either into Kennecott's Tailings

1 Impoundment shown here in the Magna area. And just to
2 orient yourself, here is the Jordan River flowing
3 northward and here is 21st South and I-80.

4 The second alternative I will show you would
5 involve discharge to the south arm of the Great Salt
6 Lake -- here just east of the Salt Air location
7 generally.

8 There are three options for treatment and
9 these diagrams are included in the Joint Proposal. You
10 can study them in more detail to understand the
11 treatment process but I would like to show you some
12 important elements: The deep water coming into the
13 process and where the byproduct streams will be
14 discharged. This first option is called in the proposal
15 Minimum Integrated Design. It is called integrated
16 design just because of how the different waters from the
17 deep groundwater and the shallow groundwater systems are
18 combined in the process. In this concept the deep
19 groundwater, as shown in the original proposal, comes
20 into feed water through the Reverse Osmosis plant and
21 that water is divided into the two streams that we
22 talked about, the permeate that would result in drinking
23 water and the byproduct or concentrate stream. In this
24 case, the byproduct or concentrate stream would go to
25 Kennecott's tailings impoundment and the shallow

1 groundwater, the lesser amount involved in this
2 proposal, would undergo standard filtration and
3 disinfection and that water that is higher in salinity
4 would combine with this demineralized water that's lower
5 in salinity in a remineralization step to accomplish the
6 treated water goal that is set at 250 parts per million
7 salinity or total dissolved solids.

8 The second option is very similar to that
9 integrated minimum design but this produces somewhat
10 more water. In this case, the only difference is that,
11 in addition to the deep extraction from the groundwater
12 system, there is a small additional extraction shown
13 here as just under 600 acre feet per year as additional
14 deep water. This would have a slightly accelerating
15 effect on the remediation. Both streams would come into
16 the Reverse Osmosis plant, resulting in slightly more
17 drinking water, 4735 acre feet per year.

18 The third option is the one that was in the
19 original proposal. This one is called the Separate
20 Design because the two deep water streams, the deep
21 groundwater, the deep water and that from the shallow
22 groundwater system are handled separately inside the
23 process, each one passing through Reverse Osmosis and
24 each one producing a byproduct of concentrate stream. In
25 this case because there is problems having the shallow

1 groundwater, the concentrate stream going into the
2 tailing impoundment, it would go to the Great Salt Lake
3 but because of the need to have a single pipeline, with
4 the high cost of doing two pipelines, Zone B would also
5 go to the Great Salt Lake south arm, producing 3500 acre
6 feet per year and from the shallow groundwater, 1235
7 acre feet per year.

8 The essence of the changes then are that
9 these options. These are the options that have changed.

10 There are different locations for concentrate
11 byproduct stream discharge and the selection of the
12 option will be made by Jordan Valley two years from now.

13 That will give us time in the intervening two years to
14 pursue studies that Dianne talked about, specifically
15 regarding selenium and the impact on the Great Salt
16 Lake. If those studies are successful by the summer of
17 2006 in reaching the important conclusions that the
18 Great Salt Lake environment would not be harmed, or if a
19 numeric standard has been achieved by that time, then
20 Jordan Valley would have the ability to select a
21 separate design. Jordan Valley believes that the
22 Separate Design has one additional benefit to the public
23 that the others don't. The others all perform
24 remediation and provide drinking water but the Separate
25 Design can be enlarged to meet future growing public

1 needs. And so that time frame two years from now will
2 be a very important time to make that decision on which
3 option to pursue.

4 I believe that's a good summary of the
5 changes to the project.

6 DR. NIELSON: Now, clarifying questions for
7 Richard before we begin formal comments.

8 Richard, you did a great job. This is the
9 first time there hasn't been questions.

10 Oh, I am sorry. Yes.

11 MALE VOICE: Richard, if indeed as a result
12 of the working group, the Salt Lake Working Group
13 outcome, and if Jordan Valley ultimately chooses or
14 selects the Separate Design, then what happens? That is
15 basically the one that Jordan Valley champions and you
16 want the Trustee to consider in the overall concept of
17 the settlement proposal. Is that correct?

18 MR. BAY: Yes. It is part of the current
19 proposal to allow that option if a numeric standard or
20 if the studies have been sufficiently accomplished.

21 DR. NIELSON: We have a few more questions.
22 Let's start on this side.

23 MALE VOICE: Richard, are there any selenium
24 standards developing anywhere in the country and, if so,
25 what's the impact on the environment?

1 MR. BAY: There are standards for protection
2 of human health that are much, much higher than for
3 wildlife. Kelly, maybe you can answer that.

4 KELLY PAYNE: I am not aware that there are
5 but I know they have been worked on.

6 MR. BAY: The first water standard is five.

7 KELLY PAYNE: Okay. Five parts.

8 MR. BAY: Parts per billion.

9 KELLY: That's wildlife.

10 MR. BAY: The issue is that the Great Salt
11 Lake is such a unique environment, it warrants its own
12 numeric standard.

13 SAME VOICE: So if I could just follow up
14 there. So the selenium that will be going through, you
15 project now about how much selenium will go in but as it
16 dissipates into the Great Salt Lake is that what you're
17 saying, you will need to determine, study that to
18 determine what the impact will be?

19 MR. BAY: Correct. The loading that would
20 occur is known at this time. The issue would be: What's
21 the impact and what would be the concentrations?

22 DR. NIELSON: Perhaps I can provide a little
23 more clarification. I am sorry. I didn't quite
24 understand the question to begin with. There is a
25 standard right now for the Jordan River, which is the

1 five parts per billion standard, and my understanding is
2 that it will soon go down to 4.6, I believe. The EPA
3 has just revised it or is in the process of revising
4 that standard and that standard would have applied on
5 the initial proposal and also applies to the wetlands
6 associated with the Jordan River at the margin of the
7 Great Salt Lake. One of the reasons that the Department
8 of Environmental Quality, Division of Water quality, is
9 now looking at numeric standards is to try to provide
10 some certainty in the future. We have always had the
11 ability to set a standard, for instance under discharge
12 permit and, in fact, Kennecott Utah Copper has a UPDES
13 discharge permit to the Great Salt Lake right now with
14 specific numeric standards as part of that permit and
15 that's reviewed on a five year period. But we have only
16 had narrative standards overall for the lake itself as a
17 body of water and the concern has been that we end up
18 reviewing that on a case-by-case basis when there is a
19 use that might have an impact involving water quality.
20 The ability to do the studies and reach a determination
21 in terms of a numeric standard for selenium to the Great
22 Salt Lake would mean that we would still have to review
23 the permits for discharge but it would simply provide
24 some certainty in terms of what the measure was that we
25 were using.

1 There were a couple of hands in the very back
2 of the room and then I'll come back around. The
3 gentleman in the very back of the room.

4 MALE VOICE: Richard, could you tell me-- you
5 said there was a two-year period on the selection of the
6 proposal for which one of the zones or which one of the
7 proposals to take out the water. Is that right, a
8 two-year period to discuss that?

9 MR. BAY: Correct. In the Joint Proposal we
10 have a schedule for completion of the Zone B and Lost
11 Use facilities and so, to accomplish that completion
12 date, we can defer the decision as long as two years
13 from now until about the summer of 2006. We then have to
14 proceed with one option or another to accomplish that
15 total completion schedule.

16 BETTY NAYLOR: And in the two years is the
17 public going to be a main concern for that-- for your
18 commission out there to participate in that proposal?

19 DR. NIELSON: There will be an opportunity
20 for public involvement during the review studies and the
21 results from that and the standard setting process
22 itself. Right now we are anticipating setting up a
23 steering committee that would include representatives
24 from various stakeholder groups and State, federal, and
25 local agencies that have regulatory or other involvement

1 with the Lake. There would likely be a science panel
2 and some review of the existing studies, determination
3 of what new studies might be needed, and opportunities
4 to review the results of those studies to consider a
5 numeric standard. The actual process of setting the
6 standard is that of proposing a rule for the Division of
7 Water Quality. That means the Board of Water Quality
8 would conduct that process, take public comments on the
9 proposed rule, make a final decision, which would be
10 part of the administrative process and all involving the
11 public and then they would take that recommendation to
12 the Environmental Protection Agency which would have the
13 responsibility of either accepting or rejecting it
14 before it could be in effect as part of the State
15 program. So there will be plenty of opportunity for
16 public information, involvement, and comment during that
17 process.

18 Were there other questions in the back there?
19 That gentleman in the white shirt.

20 MALE VOICE: Richard, would Proposal No. 1, 2
21 and 3 of wells going in on 13th, 27th and then the
22 Jordan Water-- I am a little confused here. It's
23 Kennecott's problem, but the Jordan Valley Water
24 Conservancy taking on the Reserve Osmosis treatment
25 plant, start pumping this out, who are we going to be

1 dealing with as well owners in the valley here? Are we
2 going to be dealing with Jordan Valley or are we going
3 to be dealing with-- Who are we going to come to? I
4 can see a circle developing here. We are going to be
5 chasing our tails.

6 MR. BAY: Yes, a very good question, because
7 both Kennecott and Jordan Valley will be operating deep
8 wells, we have both, Kennecott and Jordan Valley, have
9 established procedures to clarify that. We have chosen
10 40th West as a general dividing point so that a well
11 owner who had any concerns would know immediately who to
12 contact. If a well is west of 40th West, they would
13 contact Kennecott; if it is east, they will contact
14 Jordan Valley. Both Kennecott and Jordan Valley have
15 established procedures where we would respond quickly.
16 We have given phone numbers and names of who to contact
17 and that we would document in writing to the well owner
18 and to the Department of Environmental Quality as well
19 as the Division of Water Rights at each important step
20 through that process. I think one important note is
21 that the Consent Decree that we are all working under
22 does not intend to supersede Utah Water Rights Law but
23 instead to live within it and so both Jordan Valley and
24 Kennecott would operate within their water rights and
25 priority dates and observe and care for other well

1 owners just as would happen anywhere else in the valley.

2 DR. NIELSON: A follow up?

3 SAME GENTLEMAN: I understand what you said
4 but what is bothering me, when the wells go dry and we
5 are pumping wells from the shallow aquifers rather than
6 the deeper aquifers and the wells start going dry, I
7 would like to see from either Jordan Valley, I would
8 like to see, Dianne, and from the state level what
9 regulations or what penalties can be brought against
10 these entities to justify our rights.

11 DR. NIELSON: And I think that sort of
12 comment also is getting to the substance of what we
13 would like to have you discuss on the record tonight as
14 part of the public comment period. So I would encourage
15 you to make that comment once we open the comment period
16 also. There was a question right here.

17 FEMALE: (Sitting next to Lynn deFreitas) I am
18 a little confused about the process.

19 DR. NIELSON: Okay.

20 SAME LADY: So what is the decision that you
21 are going to be making soon? I mean, in other words,
22 does the-- do you accept these three options and then if
23 one is chosen it is an automatic sort of-- it
24 automatically becomes the decision?

25 DR. NIELSON: The decision that I am making

1 is the decision to accept, reject, or modify the Joint
2 Proposal that has been offered by Jordan Valley Water
3 Conservancy District and Kennecott Utah Copper. Within
4 that Joint Proposal all three of these options are
5 discussed and there is a section that also considers how
6 the decision would be made or what the considerations
7 would be made concerning the choice and it specifically
8 indicates and- I'll find the wording. Do you have a
9 page on that? It indicates that the options to
10 discharge to the Great Salt Lake would not be accepted
11 unless it could be determined that it would be-- it
12 could be done without an impact to the environment to
13 the lake, to the ecosystem.

14 MR. BAY: It's further described in Section
15 5.4D.

16 LYNN deFREITAS: Under the decision process.

17 DR. NIELSON: Thank you very much, Lynn. It
18 says: "The Jordan Valley Water Conservancy District
19 will make a decision on which lost use facility
20 alternative to pursue in the summer of 2006. The
21 decision to proceed with the Separate Design and
22 implement a discharge of Reverse Osmosis concentrate to
23 the Great Salt Lake is dependent on the studies
24 concluding that this is an option that will not cause
25 environmental degradation to the Great Salt Lake and its

1 surrounding environment."

2 And that wording that would be-- that is
3 within the proposed, Joint Proposal. So all three of
4 those options are offered in the proposal with a
5 decision to be made as we have further information from
6 the studies and evaluation of whether that would be an
7 acceptable option.

8 SAME LADY (Seated next to Lynn deFreitas) So
9 are you going to make the finding?

10 DR. NIELSON: No. Actually, the
11 determination to be able to discharge to the Great Salt
12 Lake will be dependent on the studies and hence
13 dependent on Jordan Valley Water Conservancy District's
14 ability to get a discharge permit. They will not be
15 able to get a discharge permit from the Division of
16 Water Quality unless the studies have concluded that
17 that sort of discharge can be done without creating
18 damage to the environment and based on the process that
19 the division has outlined right now will be based on
20 their determination on the selenium standard for the
21 Great Salt Lake. I am approving a Joint Proposal that
22 would allow anyone of these three options to go forward
23 if the proposal is approved and then the studies and
24 determinations regarding the acceptability of discharge
25 to the Great Salt Lake as opposed to discharge only to

1 the tailings impoundment would be made on this schedule
2 no later than the summer of 2006, and based on the
3 studies, based at least in part on the studies used to
4 reach determination of A selenium standard.

5 SAME LADY: So are you saying once you make a
6 decision one of these three options are valid, then the
7 Trustee is essentially out of the picture?

8 DR. NIELSON: The Trustee will always be
9 involved in this work as it moves forward as will the
10 Department of Environmental Quality and the agencies
11 that have regulatory authority to process, so I will not
12 step out of it. But what the proposal offers is if it
13 is accepted by the Trustee as proposed right now is that
14 any one of these three options would be acceptable. But
15 there are qualifications, and in the case of the
16 discharge into the Great Salt Lake, the qualifications
17 are, as proposed right now, that there would have to be
18 a determination that there will not be an effect on the
19 environment, that the studies would conclude that the
20 discharge to the Great Salt Lake could occur without any
21 impact.

22 Question in the back and then we will go from
23 there.

24 MR. BELCHAK: I am Tom Belchak. I have a
25 question about our proceedings tonight. The agenda

1 suggests that this is a process overview and a reopening
2 of the comment period. Could I request a clarification
3 from the Trustee as to the purpose tonight being a
4 continuation of the previous public hearings so that
5 everyone could be entitled to comment?

6 DR. NIELSON: Sure.

7 MR. BELCHAK: Basically anything they want to
8 say. Is that okay?

9 DR. NIELSON: The notice for the reopening of
10 the public comment specifically indicated that the
11 comment was being, public comment period was being
12 reopened to take comments on the changes, on the
13 revisions that are being proposed to the Joint Proposal.
14 So we are not taking any comment during this public
15 comment period on anything that anyone wants to talk
16 about. It is focused on comments on the changes that are
17 proposed and that have been defined in the Joint
18 Proposal and the associated agreement between Kennecott,
19 Jordan Valley, and the agreement between the State and
20 Kennecott and Jordan Valley. So I would ask you tonight
21 to specifically address your comments to the changes
22 that have been proposed to the Joint Proposal.

23 MR. BELCHAK: Just to clarify, if I
24 understand that the Trustee has determined an extension
25 of the existing comment period but only changes, any

1 changes that have been indicated on this last round,
2 comments will not be accepted with respect to the Joint
3 Proposal?

4 DR. NIELSON: That's right. It is, to clarify
5 again, it is a continuation of the public comment period
6 that was begun in August of 2003. The Trustee has not
7 made a decision, based upon the comments that were
8 originally received, because there have been revisions
9 to the proposal. I am reopening the comment period to
10 take comments on these changes and upon close of the
11 comment will consider both the original comments and
12 comments related to the changes before I make the
13 decision on the Joint Proposal that is now before me,
14 the revised Joint Proposal. So I will consider the
15 comments that were made in the earlier comment period
16 but during this reopened period I am asking that
17 specifically the public would focus the comments to the
18 changes that have been proposed to the Proposal.

19 MR. BELCHAK: Okay. Well, as long as we
20 acknowledge in our consensus that this is the same
21 public hearing as in 2003, I will acknowledge that the
22 public can speak. Thank you.

23 DR. NIELSON: How many other questions do we
24 have? 1, 2. Okay. Let's start over here with this
25 one. Sir.

1 MALE: What do you anticipate as the
2 construction schedule for the pipeline? Will that not
3 start until the 2006 decision or might that start
4 earlier?

5 MR. BAY: You are correct. We would not start
6 construction until after the summer of 2006. So the
7 next two years would involve preliminary engineering and
8 some construction of the deep wells to test quality and
9 some final design work. Okay.

10 BETTY NAYLOR: Richard, in the three
11 proposals that you have stated here, only on Proposal
12 Number 3 did you say that it had the ability to expand.
13 Am I understanding that correctly?

14 MR. BAY: That's correct.

15 BETTY NAYLOR: So if Proposal Number 1 and
16 Number 2 were, either one of those were to be selected,
17 we still have the seven wells?

18 MR. BAY: Yes.

19 BETTY NAYLOR: But if Number 3 were selected
20 with the seven wells and potentially additional wells?

21 MR. BAY: Any expansion would be outside this
22 project but we anticipate in the Separate Design the
23 expansion would be in shallow wells. We don't anticipate
24 any more than the seven wells that are shown in the
25 Proposal.

1 BETTY NAYLOR: You did mention in your
2 presentation you had seven deep wells but you never
3 mentioned the number on the shallow wells.

4 MR. BAY: I can clarify that. We anticipate
5 four operating and a fifth standby for the Separate
6 Design, the largest. For the two Integrated Design
7 concepts we anticipate two operating and possibly a
8 third standby shallow well.

9 BETTY NAYLOR: And you have rights secured for
10 both?

11 MR. BAY: Yes.

12 BETTY NAYLOR: Thank you.

13 MALE: Richard, one other question. Do I
14 understand correctly that 4000 West is the division,
15 west of there will be responded by Kennecott and east of
16 there will be provided by Jordan Valley?

17 MR. BAY: That's correct.

18 SAME GENTLEMAN: Then I have another question
19 that may be off the tract, but is Jordan Valley
20 municipality owned or is it a public or privately owned
21 agency?

22 MR. BAY: Jordan Valley is a public agency.
23 It's a subdivision of the State and it's considered a
24 municipality by statute.

25 SAME GENTLEMAN: But it is a private company?

1 MR. BAY: It's not private. It's a public
2 property. Let me also expand upon the issue of any
3 concern west of 40th West. Any issue on water quality
4 as well as quantity would be dealt with by Kennecott
5 west of 40th West and even east of 40th West any water
6 quality issue Kennecott would plan on responding to.

7 SAME GENTLEMAN: What I was referring to was
8 the issue of the wells drying up, the other wells in the
9 area. What I was concerned about: Are we going to be
10 dealing with a private company, a privately owned
11 company, or is it a federal agency, or State agency?

12 MR. BAY: Jordan Valley is a public, state--
13 a public agency, a political subdivision of Utah.

14 MALE: I have a question.

15 DR. NIELSON: Yes, sir.

16 MALE: Earlier you were talking about the
17 study to determine selenium concentration and if the
18 concentration based on the studies proved to be too
19 high, then the option to discharge in the Great Salt
20 Lake would not be acceptable, which then defaults to
21 discharging into the Kennecott tailings impoundment.
22 Does that-- How does that operate under the permit?
23 Does Jordan Valley then have to have a permit to
24 discharge into Kennecott? How does that work?

25 MS. DOUGHTY: Kennecott's existing UPDES

1 permit allows for them to accept, for us to accept
2 concentrates associated with groundwater contamination,
3 whether or not it's from Zone B or Zone A. That is
4 already part of the permitted process that we have had
5 for years. The issue with going to the Lake or not, one
6 of the things that Kennecott would not be willing to do
7 is to take the concentrate byproduct associated with the
8 shallow aquifers. That has nothing to do with
9 Kennecott's mining contamination. The cost, the
10 contamination associated with agricultural, irrigation
11 activity, and it's out of the, you know, the plumes that
12 are associated with Kennecott. So at the end of the day
13 we would not be taking that portion that comes from the
14 shallow aquifer. If we were to take that, that there
15 are reasons why from a process standpoint, that we are
16 unwilling to take it because it does not mesh with our
17 process. If we were to take it on, that would be
18 outside of Kennecott's permitted facilities, therefore,
19 there would have to be a separate permit for it.

20 SAME GENTLEMAN: So do you have the capacity
21 in the tailings impound to accept this discharge?

22 MS. DOUGHTY: Absolutely.

23 SAME GENTLEMAN: One other question. Earlier
24 you mentioned that you, what you, Dianne, will be doing
25 will be to accept, reject or modify the Joint Proposal.

1 DR. NIELSON: That's correct.

2 SAME GENTLEMAN: Under what conditions? We
3 have heard a lot about how accepted it will be based on
4 whether it gets discharged into the Great Salt Lake or
5 into the tailings ponds. Under what conditions would you
6 reject the proposals and under what conditions would you
7 require modification?

8 DR. NIELSON: I'm not prepared at this time
9 to define specific issues that would be the basis for
10 modification or rejection. That would be determined in
11 part on comments and the information that is provided
12 during the public comment period. But I will provide
13 that information at the conclusion of my review and upon
14 making a decision.

15 SAME GENTLEMAN: What's your time frame on
16 that?

17 DR. NIELSON: The three party agreement
18 between the State, Kennecott and Jordan Valley will be
19 effective through the end of August. It could be
20 extended by the parties, but at this point, the
21 agreement calls for a signature by the Trustee by the
22 end of August. So that is at least a potential time
23 frame for a decision, but it could be modified.

24 SAME GENTLEMAN: Thank you.

25 DR. NIELSON: There was a question over here

1 and then please let me remind you, we are anxious to
2 answer your questions that you have, certainly we want
3 to take time to do that, but we also want to make sure
4 that we provide an opportunity for comment on the record
5 tonight and we would be happy to remain and answer
6 questions afterwards also after everyone has had an
7 opportunity to provide their comment on the record. This
8 isn't to discourage a question but simply to ask you to
9 be considerate of other people's time also in being able
10 to provide their comment this evening.

11 A question over here and then we'll move
12 across once more. Yes.

13 MR. DANSIE: My name is Rod Dansie, well
14 owner in southwest Salt Lake County, close to the
15 Kennecott operations. I am concerned about the proposal
16 that has been put forth, the informal one between
17 Kennecott and Jordan Valley, on how they would handle
18 potential interference in quality or quantity. It's my
19 understanding this is really an informal process right
20 now, either one could change or go away if they wanted
21 to. I would certainly like to see that process put in
22 the Joint Agreement so that it's there when the existing
23 people that are both those agencies are no longer there,
24 for people to have that process and it be a formal
25 process that people can rely on. The reason I say that

1 is because Mr. Bay indicated that their models would be
2 a perfect indicator of what would be happening and they
3 thought they would know what would happen prior to it
4 affecting anyone. Well, I think that's great. However,
5 my concern is that if it affects someone, then there
6 ought to be a formal process rather than informal. And
7 the same thing with Kennecott. I think it should be
8 formal, I think it should be part of the Joint
9 Agreement, and I believe it should date back to the time
10 this study was started, at least in 1986, because
11 they're in the best position, Kennecott and Jordan
12 Valley, to take their model and say: This is what we
13 think has or has not happened to your well. They tell me
14 they can take that data and really bring that right to a
15 fine tune at this point.

16 DR. NIELSON: Mr. Dansie, I appreciate your
17 comment. Again, at this point I would really like to
18 encourage clarifying questions and if you have comments
19 on the process or what you think should or shouldn't be
20 part of it, I would encourage you to make those comments
21 as part of the formal comment period which we're going
22 to start in a few minutes. Thank you.

23 Are there other clarifying questions? In the
24 back of the room.

25 TOM BELCHAK: Just to follow up on the

1 question that I asked earlier. I want to make sure I
2 understand that this is an opportunity for the public to
3 comment on the Joint Proposal. Is that correct?

4 DR. NIELSON: Again, the statement that was
5 provided when we reopened the public comment period was
6 that the period would begin on June 18th, run through
7 August 2nd of 2004, and that the public is invited to
8 comment on the proposed changes detailed in the revised
9 proposal to the NRD Trustee and the implementing
10 agreements that are identified in the fact sheet.

11 MR. BELCHAK: Okay. That's just not clear to
12 me. This is a different comment period and I guess we
13 can go with that interpretation. Is that okay?

14 DR. NIELSON: You may provide whatever
15 comments, obviously, that you would like to provide.

16 MR. BELCHAK: The Trustee--

17 DR. NIELSON: The reason that I opened,
18 reopen the comment period is to provide an opportunity
19 to receive comments on the changes to the Joint
20 Proposal. That's what I am anxious to hear comment about
21 at this point, but I realize that I will receive
22 whatever I receive.

23 MR. BELCHAK: Thank you.

24 MR. WADDELL: Bruce Waddell. I wanted to
25 follow up on one of the questions that was posed earlier

1 concerning the studies over the next two years on the
2 Great Salt Lake. Certainly it is ambitious and I hope
3 they make their goals. What happens in the decision
4 process; will it be deferred in 2006 if we haven't
5 reached agreement on what the situation is with the
6 Great Salt Lake or will there need to be a decision made
7 in 2006 one way or the other?

8 DR. NIELSON: Well, there are a number of
9 controlling factors there. The studies are designed to
10 help us determine what would be a protective level for
11 selenium for the ecosystem of the lake for our wildlife
12 in the lake, brine shrimp, the birds, their habitat, and
13 for the public. Any request to discharge to the Great
14 Salt Lake in any case would require a UPDES permit with
15 specific discharge limits and our objective here is to
16 do the studies, establish a numeric standard for
17 selenium that would govern the ability to grant or not
18 grant discharge permits based on that standard. The
19 Consent Decree-- not the Consent Decree. The Joint NRD
20 Proposal is very specific on the findings that would
21 need to be made if Jordan Valley were to proceed with
22 the third-- with the option that's the separate option
23 that provides discharge to the Great Salt Lake. If, for
24 any number of reasons, we weren't able to make that
25 determination at that point, then Jordan Valley has two

1 other options that they could also consider. Did you
2 want to add to that, Richard?

3 MR. BAY: Yes. By the summer of 2006 Jordan
4 Valley is willing to proceed on one of the three options
5 and so if the studies regarding selenium are not far
6 enough along, Jordan Valley will be forced to choose one
7 of the other two.

8 MR. WADDELL: Thank you.

9 DR. NIELSON: At this point I would like to
10 suggest that we proceed to the public comment on the
11 record, realizing that there will be an opportunity at
12 the end of the time this evening if there are further
13 questions, we will be happy to meet with you informally.
14 We are also anxious, the Department and I know
15 Kennecott, and Jordan Valley have made extensive efforts
16 to meet with people formally and informally to answer
17 questions and describe the proposals and we will
18 continue to do this through the remainder of the public
19 comment period.

20 According to the sign-in sheet this evening
21 there are seven individuals who have indicated that they
22 would like to present public comment on the record and,
23 as we proceed, if you change your mind and you want to
24 speak and you didn't sign up, I will provide an
25 opportunity for you to do that. When we proceed through

1 this initial list of individuals if, as we go forward,
2 you decide you don't want to speak when I call your
3 name, that's fine also. I will also provide an
4 opportunity at the beginning of comment to hear from
5 elected officials at the local level, the State level,
6 and the federal level before I go to the sign-in sheet.

7 My name is Dianne Nielson. In addition to
8 being the Executive Director for the Department of
9 Environmental Quality, I am the Trustee for the State of
10 Utah for Natural Resource Damage Claims and I will be
11 presiding over the hearing this evening. The comments
12 that are presented on the record will be considered,
13 will be included within the comment response document
14 that the Trustee reviews and provides to the public at
15 the time that a decision is made on this proposal and
16 the Trustee will provide response to comments as part of
17 that comment response summary.

18 The Public Comment Hearing was advertised in
19 The Salt Lake Tribune and The Deseret Morning News on
20 Friday, June 18th, 2004. Since this is a public hearing
21 we have with us a court reporter from CitiCourt tonight,
22 who has been and will transcribe these proceedings. A
23 copy of that transcript will be available in the offices
24 of the Department of Environmental Quality when it has
25 been completely compiled and it will be considered part

1 of the record decision on this proposal.

2 Comments raised tonight will not be addressed
3 directly this evening as you present them for the
4 record, however, as I indicated they will be addressed
5 and included within the comment response document.

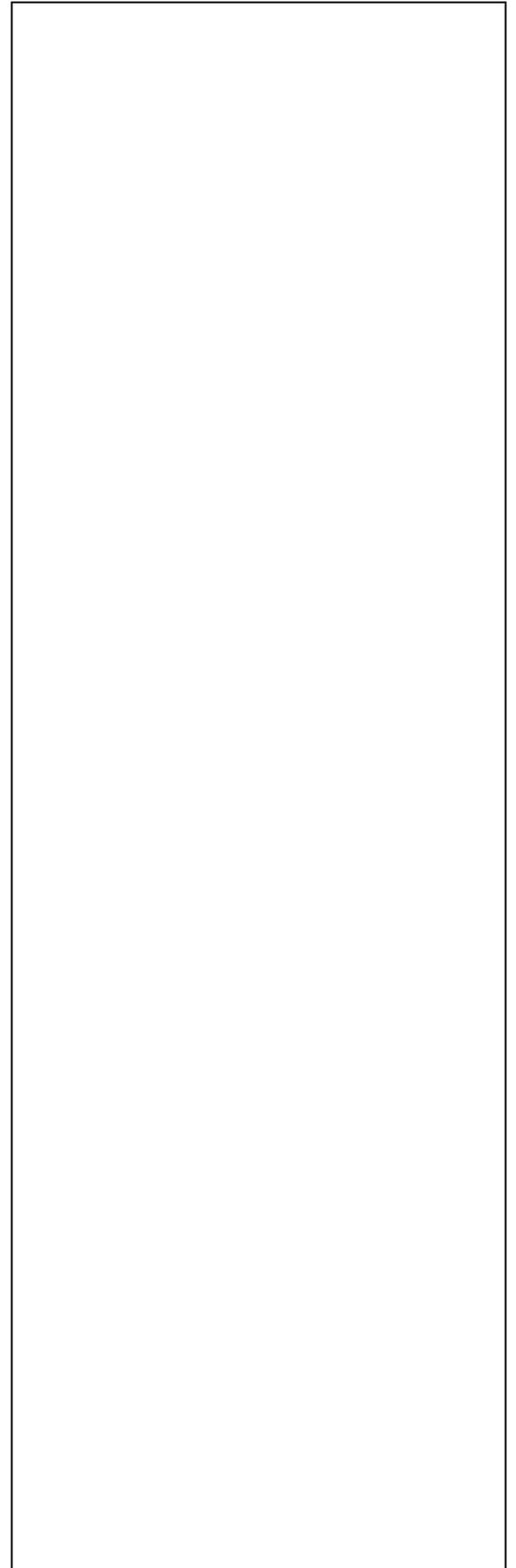
6 If, after tonight, you would like to follow
7 up with one of the project managers or if you have
8 additional questions, I would encourage you to contact
9 Doug Bacon at the Utah Department of Environmental
10 Quality. That number is 801-536-4282. You can also, as
11 indicated in the facts sheet, contact us by Fax or
12 through the Website. All of the information for the
13 reopening of this public comment as well as the original
14 comment or initial comment period is included on the
15 Website at DEQ.utah.gov. As I indicated, we will
16 proceed with elected officials and then individuals who
17 have signed in tonight in the order in which they signed
18 the attendance register. As I call your name, I would
19 ask you to come to the podium so that we can hear your
20 comments and record them clearly. Please indicate your
21 name and if you are appearing as a representative of an
22 organization, please indicate the affiliation. Based on
23 the number of people at this point who have indicated an
24 interest in speaking, I would suggest that the initial
25 comment period would be five minutes, that will enable

1 us to hear from all of those individuals and then, as I
2 indicated, I will ask if there are others who want to
3 make a comment. At the end of that time if there is
4 someone who wants an additional five minutes or less to
5 complete their comments, we will go to them to provide
6 that opportunity. But I want to give everyone a first
7 opportunity to speak before we take any additional
8 comments. In past hearings, there have occasionally
9 been individuals who have been willing to cede their
10 time to an individual who is speaking. I respect that
11 and I appreciate that. I would ask tonight, however,
12 that you recognize that I am willing to give that
13 individual additional time at the end but I would rather
14 not extend an individual comment period initially,
15 providing five minutes per commenter so that we give
16 everybody a chance within a reasonable amount of time
17 and then we will go back to take additional comment.
18 Thank you very much.

19 At this point, are there any local elected
20 officials who would like to speak this evening? Any
21 State officials? Yes, sir. Would you come to the
22 podium, please.

H36

23 MR. DAVID HOGUE: Thank you, Dianne. I am
24 Representative David Hogue. I represent District 52
25 which is part of, most of Riverton, Herriman and part of



H36-1

1 South Jordan, many of the areas impacted here. One thing
2 that going forward that I would like to see happen with
3 the Utah State Legislature is there's a communication
4 line provided as this process goes forward that we
5 provide information to educate the legislators in the
6 entire State, not just those that are impacted here, so
7 that they might at some point be part of what's going
8 on. If not for a visit to see the process, to at least
9 have some input other than those that serve on
10 committees that might be impacted by this information.
11 I think it's very important. This is a monumental task
12 that we're taking on here, something that was probably
13 never predicted when it began but now it impacts the
14 water sources and the water quality that we have. It is
15 certainly important to go forward. Thank you.

16 DR. NIELSON: Thank you very much. Are there
17 any State elected officials who would like to speak? (No
18 response) Any federal elected officials? (No response)
19 All right. The first individual on the attendance
20 register tonight who has indicated an interest is Lynn
21 deFreitas and following Lynn will be Betty Naylor.

H37

22 MS. DeFREITAS: Thank you, Dianne. My name is
23 Lynn deFreitas. I am the president of Friends of Great
24 Salt Lake, a non-profit organization that works to
25 preserve and protect the Great Salt Lake ecosystem and I

H36-1 The Trustee welcomes the opportunity to meet with Legislators, provide updates on the proposal, hear comments, and answer questions. Briefings have been provided to the Legislative Management Committee on November 18, 2003, and August 17, 2004. Utah Legislators whose districts cover the area of the project are being notified of hearings, meetings, and actions regarding the proposal. DEQ is also providing information and encouraging public involvement, as described in Response to Common Comment No.1.

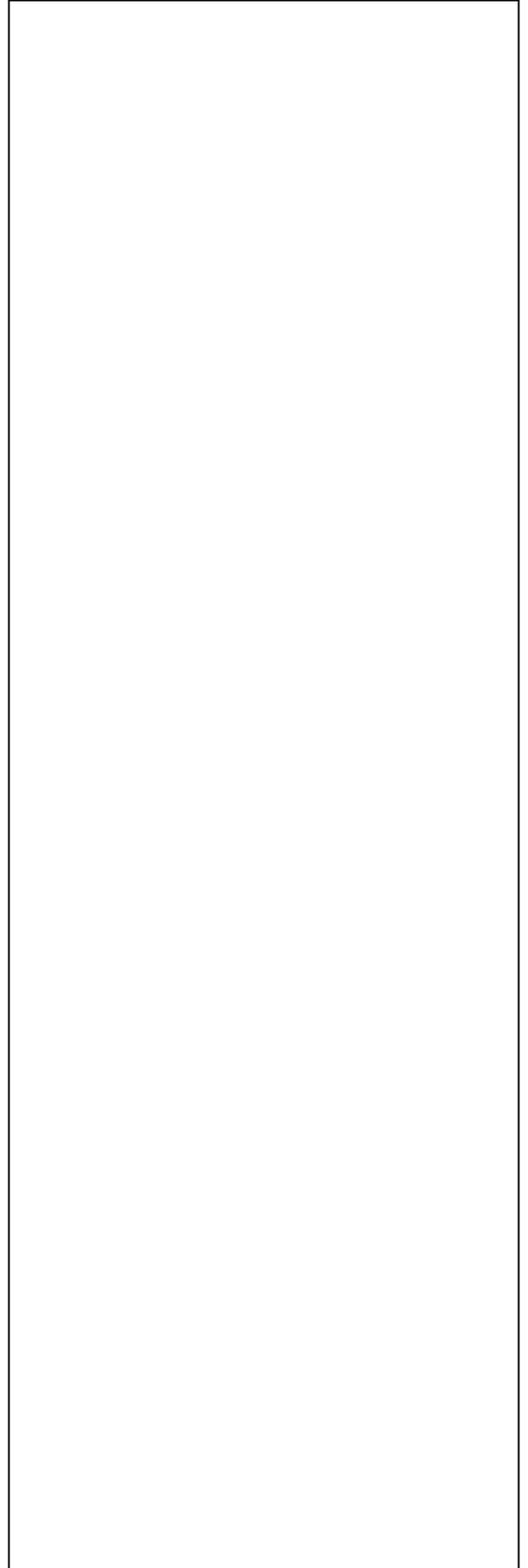
1 am here representing that organization. We will be
2 submitting written comments by the 2nd of August as
3 well. I would like to read my comments, if I may. "As
4 FRIENDS continues to review the proposed revisions and
5 contemplates the scope and dimension of this remedial
6 program, we offer these comments.

7 We want to thank the Trustee for providing
8 for this public commenting period so that the Great Salt
9 Lake Community has another opportunity to offer input on
10 the proposed revisions to the original NRD proposal and
11 implementation documents.

12 We also want to thank the Trustee for
13 improving the overall process by expanding the
14 communication of information and by increasing public
15 participation opportunities. Given the nature of this
16 issue, it was timely and necessary.

17 Friends is pleased that a major step has been
18 taken to assemble a Great Salt Lake Numeric Standards
19 Working Group which will provide an invaluable tool in
20 helping to determine water quality standards for Great
21 Salt Lake.

22 We realize that the driving force behind
23 taking this first step directly relates to Jordan
24 Valley's preferred design option. This option for Zone
25 B/Lost Use operations known as the Separate Design calls



1 for discharging selenium concentrate directly into the
2 Great Salt Lake.

H37-1

3 We're concerned about how easily we can be
4 seduced into thinking that a numeric standard is indeed
5 a silver bullet. Rather it should be viewed as an
6 additional instrument that can be considered in the
7 overall scheme of effective and responsible management
8 decisions for the Great Salt Lake ecosystem, and in this
9 particular instance, assisting the Trustee in the
10 decisions she must make on this remedial project.

11 It's not uncommon to base a claim of no harm
12 or impairment on a standard, either narrative or
13 numeric. But such standards need the necessary
14 supporting research, analysis and monitoring to
15 substantiate such a claim. Without that how can we be
16 sure that we aren't harming or impairing the beneficial
17 uses of aquatic organisms of the Great Salt Lake
18 ecosystem? And when there are other options that will
19 allow us to avoid unnecessary discharges into the Lake,
20 why not use them?

H37-2

21 That said, of the three designs that Jordan
22 Valley has proposed for Zone B/Lost Use operations, we
23 find the Separate Design the least acceptable for the
24 following reasons:

25 1. The Separate Design discharges selenium

H37-1 Response to Common Comments No. 9 recognizes the importance of the water quality of the Great Salt Lake, including the work to establish a numeric selenium standard. With the support of the DEQ Division of Water Quality, the Great Salt Lake Water Quality Steering Committee is providing a science-based, stakeholder participation process for evaluating a numeric selenium standard for the Lake. The evaluation and recommendations will assist the Division and Board of Water Quality, both in terms of the decision on a standard and the broader water quality management of the Lake. Additional information is available on the DEQ website www.deq.utah.gov

H37-2 The recommendations regarding benefits and concerns with the options will be considered.

1 directly into the Great Salt Lake through a pipeline
2 into Gilbert Bay, the South Shore. The Integrated and
3 Minimum Integrated Designs do not. These two designs
4 would send Zone B concentrates directly to Kennecott's
5 tailings impoundment. Also, there is no Lost Use
6 concentrate disposal because of the process involved.

7 FRIENDS supports either the Integrated or
8 Minimum Integrated designs because the concentrate does
9 not go directly into the Great Salt Lake. Even when a
10 numeric standard is determined for selenium, we believe
11 the two other alternatives are better.

12 2. The Separate Design includes a Reverse
13 Osmosis facility for both Zone A and the Lost Use
14 component. This design exceeds the terms of the Consent
15 Decree. In fact, the Separate Design would allow Jordan
16 Valley to have infrastructure in place that would be
17 used to meet the District's long term water development
18 needs. The Integrated and Minimum designs do not
19 include an R/O facility for the Lost Use component and
20 there is no Lost Use concentrate disposal because of the
21 process involved.

22 Again, we support either the Integrated or
23 Minimum Integrated designs because they satisfactorily
24 meet the terms of the Consent Decree. It requires a
25 very different public process than the one related to

1 the NRD proposal.

2 Our analysis is that the Separate Design now
3 proposed by the Jordan Valley is not in the best
4 interest of the Jordan Valley River, Great Salt Lake, or
5 the communities, both natural and economic, that depend
6 upon them. Again, we would like to thank you for this
7 opportunity to comment.

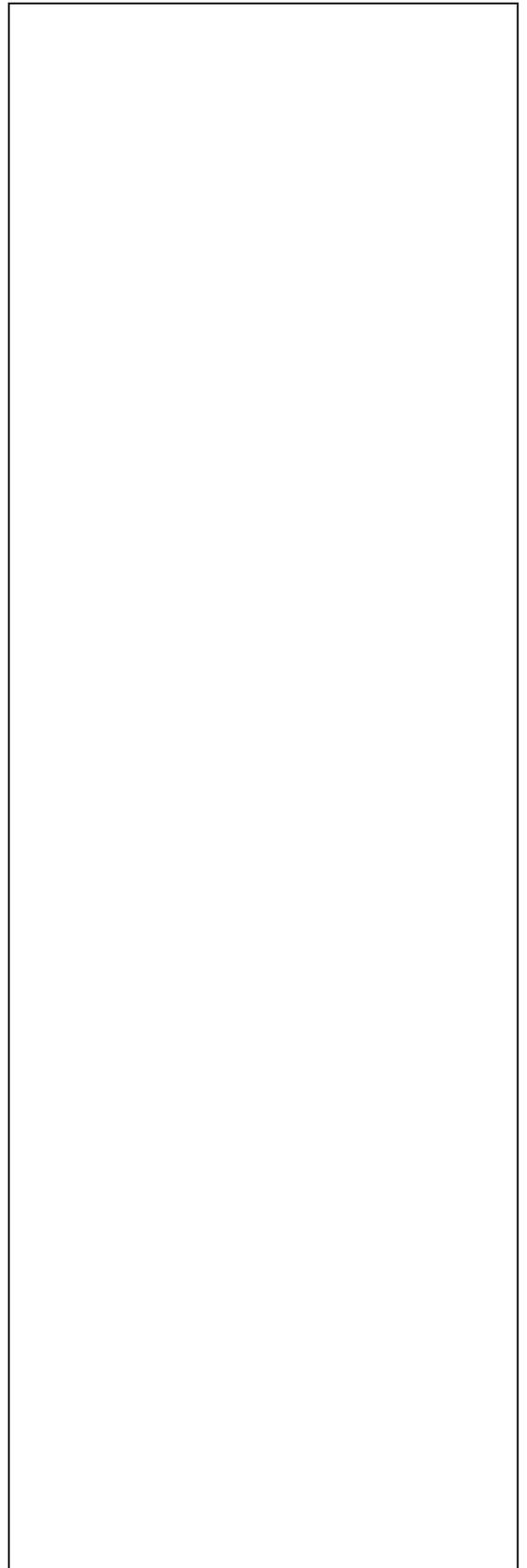
8 DR. NIELSON: Thank you very much. Betty
9 Naylor and following Betty will be Rod Hurst.

H38

10 BETTY NAYLOR: Thank you, Dianne. Tonight I'm
11 going to represent three different entities. First of
12 all, my position on the forum that has been put in
13 place, and we have had two informal public hearings but
14 they have not been recorded or made part of the formal
15 proceedings. Second, the Gardner Heritage Farm which I
16 own, and third, myself.

17 Regardless of the changes in the process of
18 disposal, you have to have the water in order to do any
19 of it. And that is clearly what we have heard in the
20 informal proceedings for the two different times that
21 the well, the private well owners have had an
22 opportunity to make informal comment.

23 I'm going to be brief because I think we all
24 know what we're talking about when we say. I've heard
25 six things come from those two informal processes,



H38-1

1 Number 1. Quality of the water, how to
2 maintain or enhance the quality of the water.

3 Number 2. Quantity of water. The well users
4 do have a right to the quantity, private well owners do
5 have a right to the quantity of water that they have
6 historically had as well as the quality.

7 Number 3. We do have water rights as private
8 well users even though we probably don't have the money
9 to fight for those rights like the Big Boys do. We still
10 have the right, we still want them protected and we
11 still want to be able to have them for eternity.

12 I also heard in those informal processes that
13 there was a great concern for the replacement of loss of
14 rights, quality or quantity, and that replacement should
15 cover not only to date but it should cover the
16 replacement value of the water as well as the cost of
17 our having to be connected to culinary water sources
18 which has been suggested.

19 There is also the fifth part was the recharge
20 of the aquifer. There was concern expressed in the
21 informal hearings that the aquifer could be drawn down
22 to the point where we were not able to access that as
23 private well users and also for others. So the fifth
24 point was the recharge of the aquifer.

25 The sixth point is to have the document that

H38-1 Information is provided in the Responses to Common Comments Nos. 3 and 10.

H38-2

1 was finally presented in those informal hearings, the
2 process by which if private well users were damaged be
3 put in a formal process, so that it is recognized
4 formally how we can go about recapturing or having
5 agencies hold to the standard of which we have somewhat
6 arrived at as a process to go through for damages if
7 they do occur.

8 Having said that, I am going to put on the
9 other hat as the owner of Gardner Heritage Farm. In
10 August of 2007 we will have owned that farm for 100
11 years in the same family. We do have two types of water
12 rights that in keeping in terms of the new proposals,
13 you still have to have water and you're still going to
14 drill wells to get this water out of the earth. We have
15 two types owned by my farm and that is wells and shallow
16 aquifer rights to that. Although I have no models,
17 which everybody keeps referring to models, I know that
18 when I turn on my tap, the water does come out for that
19 period of time. I know that when I take my water from
20 the sources of the shallow aquifer, the water is always
21 there. I know that I have a line on my pipe. I don't
22 have numbers. I don't have scientific data to establish
23 that line but I know where the line on my pipe is to the
24 quantity of water that I am able to use and have the
25 right to use, how these wells take the water, take it

H38-2 The referenced documents, Jordan Valley Water Conservancy District's "Zone B/Lost Use Groundwater Interference Mitigation Plan" and Kennecott's "Zone A Water Quantity/Quality and Zone B Water Quality, Well Owner Concern Evaluation Process" are included as part of the Trustee's Comment Response Summary, in Response to Common Comment No. 10.

H38-3

1 through the earth, one through three processes that you
2 are going to use. That water has to come from
3 someplace. I want to be protected. I want to be
4 protected in the quality, the quantity, and again my
5 water rights, to be able to access my water and to have
6 the amount of water that I historically have been able
7 to have. And that regardless of your process, what you
8 do with this water in the end, I need it in the
9 beginning. This shallow groundwater, I would agree with

H38-4

10 what Lynn says, I believe that your Proposal Number 3, I
11 support her entirely on this Proposal Number 3, just
12 opens another window for public agencies to be able to
13 access more water from private rights. Maybe you can
14 buy up private rights but there are a few of us that are
15 still going to have to have our private rights.

16 Number 3. Proposal Number 3, representing
17 only myself and my farm, gives the opportunity for the
18 expansion for municipal purposes again in my opinion
19 taking away from the private rights of the individuals
20 who have their wells and have their water they have
21 historically had. And with that I will sit down.

22 DR. NIELSON: Thank you very much for those
23 comments. Rod Hirst and following Mr. Hirst, John Nagel.

H39

24 MR. HURST: Thank you. I am a member of the
25 United Steel Workers of America, Local 392, also a

H38-3 See the Response to Common Comment No. 10.

H38-4 The concerns about Options #3 and water rights are noted

H39-1

1 resident of West Jordan. And I also have a family and my
2 grandsons and my granddaughters are growing up and my
3 last comment was the project funding. Who is going to
4 fund this project when Kennecott is gone? Who is going
5 to fund this project 40 years from now that you propose
6 that this is going to go on? On 9.0 of the project
7 funding you have changed the funding from October 2002
8 to January 2004 dollars. Is Kennecott Copper going to
9 pitch in their fair share and is Kennecott Copper going
10 to also give back their money that they proposed to put
11 into this project? I understand that from the last
12 proposal that down the road that Kennecott Copper will
13 receive all their monies to put back into this project.
14 Is that true? Also, on 10.0, who is going to maintain
15 this project? Is it Kennecott Copper or is it going to
16 be the people? Also, Kennecott Copper is no longer
17 going to be in the mining industry within the next 15
18 years. Who is going to take care of this project? Is
19 it going to be us? I know that, Paula, I have worked
20 with you a lot of years and I have talked to you a
21 couple of times and I've worked for Kennecott for 30
22 years. There's only been a few times that Kennecott has
23 told me the truth and I just don't believe what they
24 say. So you have got to come up with some kind of
25 proposal, put something into this proposal that will

H39-1 See Responses to Common
Comments Nos.12 and 13.

1 protect us. Thank you.

2 DR. NIELSON: Thank you very much for those
3 comments. John Nagel to be followed by Wayne Lantz.

4 MR. NAGEL: I'm John Nagel, and I represent a
5 group that has had some correspondence with the three of
6 you I think under the name of Innovative Water Solutions
7 Group. I'll refer to that as IWS.

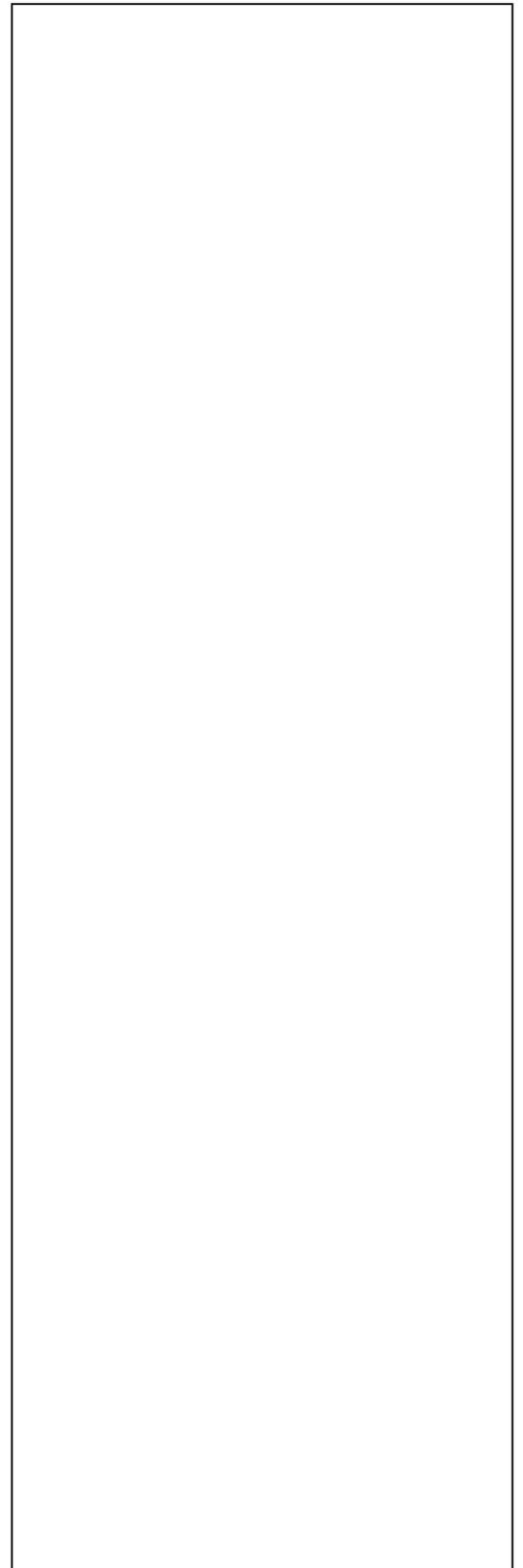
8 IWS has suggested an alternative to the
9 processing options for the Zone B R/O reject fluid
10 depicted in Figures 5.4B, 5.4C and 5.4D of the Proposal.
11 IWS's suggestion involves the use of vacuum distillation
12 equipment and some ancillary processes that will give
13 the District and the community at large several
14 advantages over the depicted options:

15 Over 95 percent of the water to be discharged
16 to the Great Salt Lake or the Kennecott tailings
17 impoundment will be recaptured for distribution through
18 the Jordan Valley District network as potable water.

19 Certain chemical compounds will be harvested
20 from the reject flow and sold at market values to
21 mitigate the costs of remediation.

22 There will be no liquid discharge into the
23 Jordan River, the Great Salt Lake, or the Kennecott
24 tailings impoundment, thus no environmental issues. This
25 will allow the District to proceed at will with tapping

H40



1 the Lost Use wells in the volume necessary to meet the
2 requirement of 4,735 acre feet per year of treated water
3 without having discharged unwanted contaminants into
4 either the lake or the impoundment or having to seek
5 additional water rights. It will also permit
6 incremental expansion of the use of the Lost Use Wells
7 to meet future District needs.

8 The suggested processes will involve
9 manipulating and transporting various chemical compounds
10 on a daily basis. Such activities have not been part of
11 the normal routine for Jordan Valley, nor has it been
12 planned that they would become such. There are at least
13 two general approaches under which the suggested process
14 could be implemented:

15 First would be a turnkey approach. The
16 District would buy the necessary equipment, both our
17 distillation equipment and the ancillary process
18 equipment, then operate the equipment and processes over
19 the long term. This would include the marketing and
20 handling of the chemical compounds.

21 Alternatively, a privatization approach. The
22 District would enter into agreement under Utah Code
23 73-10d whereby it would become a joint venture partner
24 with IWS and other contributing partners. The joint
25 venture would be operated separately from Jordan Valley,



1 it would receive the R/O rejects from the District,
2 process it, and sell the chemical compounds extracted
3 from the reject and sell the usable water back to the
4 District for distribution to its customers. The profits
5 from this operation would be shared among the joint
6 venture partners, including the District. We would
7 expect an amount equal to the net present value of the
8 pipeline alternative for comparable processing flows to
9 be a capital contribution from the District to the joint
10 venture, which would then own the facilities, eventually
11 own the facilities. Should it be necessary, additional
12 funding will be obtained through the contributing
13 partners or through the issuance of industrial
14 development revenue bonds as provided for in Utah Code
15 73-10d.

H40-1

16 The IWS proposal has been somewhat below the
17 horizon as compared to the other alternatives because of
18 the version of the distillation equipment that we
19 propose to use in this application is still under
20 development. We expect to have the first 500 gallon per
21 hour distillation module on site in Utah in September.
22 This will permit some preliminary testing. We recognize
23 the need to eventually have three of these 500-gallon
24 per hour units operating serially over the extended
25 period of, say, three months in order to demonstrate the

H40-1 The Joint Proposal before the Trustee is based on an established water treatment technology, reverse osmosis. See the Response to Common Comment No. 4 regarding evaluation of various technologies.

1 effectiveness of anti-scaling techniques to be used in
2 conjunction with the distillation equipment. Serial
3 operation means the condensate from Phase 1 distillation
4 will become the feedstock for Phase 2, and the
5 condensate from Phase 2 become the feedstock for Phase
6 3. Each phase's condensate becomes increasingly
7 concentrated so scaling mitigation needs to be proven
8 for all degrees of concentration to be encountered. We
9 also need to have one of the 2000 gallon per hour
10 machines, which consists essentially of four 500 gallon
11 per hour modules under a common vacuum chamber, to
12 demonstrate the productivity and electrical efficiency
13 of the units actually to be employed in our proposal.
14 The ultimate configuration will be multiple copies of
15 two of these 2,000 gallon per hour machines packaged in
16 a 20 foot by 8 foot container, the same size as a
17 standard shipping container.

18 Our immediate concern is that we have an
19 opportunity to demonstrate what we can do despite the
20 fact that we are presently still in development. We
21 think that water conservation and zero-liquid discharge
22 advantages previously cited warrant giving us that
23 opportunity to prove ourselves. We observed in
24 paragraph 1.2 of the Proposal, Adjustments to the
25 Project, and more specifically the subparagraph on

H40-2

H40-2 See Response to Common
Comment No. 4.

H40-3

1 Decision Process, that the decision on which Lost Use
2 Facility alternative will be pursued is scheduled to be
3 made in the summer of 2006. We believe we can perform
4 the testing suggested above by the end of next summer,
5 say, by September 30, 2005, though we may be able to
6 accelerate that schedule if it should be necessary. We
7 need some assurance that it is worth it to us to
8 continue to move forward on this project with the
9 testing over the course of the next year; that is
10 subject of course we succeed with our testing and
11 demonstration over that period, that we will not be
12 foreclosed from appropriate evaluation and comparison
13 with the other three options in the Proposal.

14 DR. NIELSON: Thank you for those comments.
15 Wayne Lantz to be followed by Jay Riley Dansie.

H41

16 WAYNE LANTZ: My name is Wayne Lantz,
17 L-A-N-T-Z and I represent Lance Consulting Group, LC,
18 L-A-N-C-E. I have a couple of comments, the first one

H41-1

19 being: Again, why is the public paying for private
20 contamination clean-up; the public being the ratepayers
21 and taxpayers? We're paying for the proposal to go
22 forward. Let me ask another question. I understand the
23 definition of a Trustee to be one to whom something is
24 entrusted, one entrusted to keep or administer
25 something. My understanding of a trust fund is the

H40-3 Regulatory oversight of the project is discussed in Response to Common Comment No. 13. Reverse osmosis is the water treatment technology upon which the proposal is based. JWCD and Kennecott may consider other technologies and improvements during the life of the project. Changes in treatment may require approval of regulatory authorities and will require evaluation by the Technical Review Committee and perhaps others to ensure that the requirements of the Joint Proposal, Implementing Agreements, Consent Decree, and environmental regulations are met.

H41-1 See Response to Common Comment No. 12 regarding funding of the cleanup.

H41-2 | 1 doctrine of holding, assets are held in a trust fund for
2 the benefit of parties. And a Trustee has a fiduciary
3 duty to deal with them properly. A trust fund basically
4 could be a sum of money or other resources, principal,
5 interest to set aside for a specific objective and, two,
6 property such as money secured, settled or held in
7 trust, From there, go back to the proposal. The
8 Consent Decree provides for one trust fund, it says one
9 trust fund, it says one trust fund, which includes the
10 irrevocable letter of credit and the cash payment that
11 is held. And it says that it shall be held as part of
12 the trust fund, the irrevocable letter of credit. That's
13 in Section 5d2 line 1. I don't read anywhere in the
H41-3 | 14 Consent Decree where it infers that the Trustee can
15 split the irrevocable letter of credit into two. It only
16 says that you can't convert it to a purveyor and you
17 can't cut it into two separate ones. It only provides
H41-4 | 18 for reduction of the irrevocable letter of credit as
19 water is provided by Kennecott to a purveyor.
20 The second item I would like to address is on
21 the letters of credit or on the letter of credit,
22 irrevocable letter of credit. Why would the Trustee
H41-5 | 23 propose again a reduction in that letter of credit which
24 is established at the rate of 7 percent to the rate of
25 one-and-a-half percent. Again, the Consent Decree,

H41-2 The Trust Fund was established in accordance with the 1995 Consent Decree in order to “restore, replace, or acquire the equivalent of the surface or ground water resources for the benefit of the public in the Affected Area.”

H41-3 Use of the Irrevocable Letter of Credit (ILC) and cash portions of the Trust Fund, as defined in the Joint Proposal, Project Agreement, and 3-Party Agreement, are consistent with the terms of the Consent Decree.

H41-4 Under Section V.D.2.b.iv of the Consent Decree, reductions for operation and maintenance are also made “based on established obligations to provide water.”

H41-5 The requirement for a 7 percent interest rate applies only to the Letter of Credit established initially in accordance with the Consent Decree.

1 section 5D2a states that it's at 7 percent.

H41-6

2 First of all, why would we want to do it when
3 it has already been established that the settlement was
4 and is insufficient to protect the public? And the

H41-7

5 second thing is that the decree again only specifies
6 that there's one irrevocable letter of credit and not
7 two. Why would the Trustee give the benefit to

H41-8

8 Kennecott in the reduction of that rate when we have the
9 benefit of reducing the irrevocable letter of credit by
10 providing the municipal quality of water to a purveyor?

H41-9

11 Okay? So I guess my question would be: Would the
12 Trustee be in violation of the fiduciary responsibility
13 in doing so if the rate is reduced and also that the
14 irrevocable letter of credit is divided into two
15 separate ones?

16 DR. NIELSON: Thank you for those comments.

H42

17 Jay Rodney Dansie to be followed by Richard G. Nelson.

18 MR. DANSIE: My name is Jay Rodney Dansie,
19 Southwest Salt Lake County. I represent Dansie Water
20 Rights, the Dansie Water Company, I would like to say
21 thanks to Dr. Nielson for the opportunity to come here
22 and thank you, Paula Doughty, and Richard Bay for the
23 work that you have done on this proposed joint
24 agreement. There's a lot of detail went into it and the
25 numbers and I think that's great. However, I think we

H41-6 The objective of the settlement established by the Consent Decree is to resolve a Natural Resource Damage Claim for damages to groundwater in the Affected Area. It does not resolve other claims or rights of third parties. It operates within the existing state and federal regulatory framework, including other public protections.

H41-7 See response to Comment H41-4, above.

H41-8 Reduction of the ILC is governed by the Consent Decree.

H41-9 The interest rate and ILC provisions of the Joint Proposal are consistent with the requirements of the Consent Decree.

1 ought to put this particular proposal into perspective,
2 into focus.

3 In 1993 someone said it costs 2.2 million
4 dollars to clean up the Bingham plume. I read something
5 in the paper about it. This is a good proposal, it has
6 cut that cost down a lot. I think it shifted the cost a
7 lot. That's not my main focus, I'm concerned about that,
8 however. And we did spend a lot of time with the State
9 to reach an agreement. The first agreement, for some
10 reason, was not adequate according to the Judge, so a
11 second agreement was reached called a Consent Decree and
12 we appreciate that.

13 The other thing, Jordan Valley brought a
14 lawsuit against Kennecott and received a considerable
15 sum of money and water rights to help remediate that
16 natural resource damage to the rights of the public.
17 Putting those two things into perspective, we have a
18 large organization, Jordan Valley, who has tried to work
19 hard but basically is unaccountable to the citizens,
20 however, I don't know how you can get them to be
21 accountable but they do the best that they can. They
22 have a board of directors that reports to no one,
23 they're appointed by the Governor and once that happens
24 they can do whatever they want. We have got Kennecott
25 who is a good company, Rio Tinto, they're in London,

1 they have a nice statement policy, they want to do
2 what's right, too. The local manager is qualified. I
3 think we have to keep those things in mind as we go
4 forward with this. Then we have a Trustee who it's my
5 understanding is the Trustee has the responsibility to
6 represent the citizens of this State and see that that
7 money is spent well, protected, and that it does what
8 the Consent Decree has provided.

9 My concern is in the Southwest Salt Lake
10 County portion. I would like to start on page 18 of
11 this report and they talk about the water coming from
12 Butterfield Canyon, the Oquirrh Mountains, and going
13 into the Jordan River. The elevation works for us,
14 about 6400 feet above sea level and it goes down to
15 around 4,000 or 4,800. The people at Kennecott pump
16 wells around 4200, 4800, Herriman's wells are around
17 4,800. So everything kind of flows downhill. What I see
18 in this particular proposal is that the water doesn't
19 get back to the affected area, it goes to Herriman, and
20 that's great, but there's probably 10 square miles in
21 Herriman in the incorporated area and there's probably
22 30 square miles that's still in Salt Lake County, beyond
23 Herriman's borders. It is not part of Herriman and
24 cannot be served unless there's modification made to
25 this joint agreement by Herriman or by Jordan Valley,

H42-1 See Responses to Common
Comments Nos. 11 and 10.

H42-1

1 because they don't go up there. However, they say that
2 they're going to bring the water to a high elevation,
3 which is Zone D, 5150 feet, but the damage that we have
4 had is up about 5300 feet. And they say, "We'll help
5 you get water back if this happens." Well, I can assure
6 you that Mr. Bay has done a good job on this model. He
7 knows before it ever happens what will happen, and I
8 don't think there's anybody in this room that will ever
9 be compensated for damage to an effect by Jordan Valley,
10 maybe by Kennecott, because it's just too informal and
11 we don't have the data, we'll never be able to prove it.
12 The burden is on us. So I think that needs to be
13 formalized. I have asked that three or four times and I
14 hope it will be considered by the Trustee. They always
15 say, "We'll help you get water back." Well, how do we
16 get water back if there's no line to do it? We have
17 asked for a line to come from the Zone A treatment plant
18 south of Herriman, it's a high elevation, about 5350.
19 They even increased the water that's going to be
20 allocated to Herriman from 500 acre feet to 1,000. We
21 think that's great, because this is the area that will
22 be affected, has been affected for many years by
23 pumping, by Kennecott pumping since 1996. You know,
24 clean this plume up. If you go out you will see a visual
25 impact of what's happening to that area, not only from

1 the pumping but Kennecott spent a lot of money, bless
2 their hearts, to stop the water in the mountain that is
3 contaminated from coming down into the aquifer. They
4 also took 3,000 gallons of my water and went south to
5 the process plant, not because they needed it, but
6 because it was contaminated. So basically we dewatered
7 the area that is most critical, Southwest Salt Lake
8 County, an area affected by quality and quantity and we
9 have no way to get that water back.

10 Now, I'm going to ask the Trustee tonight to
11 take a good hard look at that because the Consent Decree
12 says: Get the water back to the areas that's affected
13 based on previous water rights and to the public. And
14 Jordan Valley and Kennecott have chosen a purveyor,
15 which is great. I would ask the Trustee to amend that
16 agreement and say if another water company became a
17 member agency of Jordan Valley by becoming a water
18 improvement district, that they be included to benefit
19 from that. I think that's very necessary because the
20 water does not get back there and we're the ones being
21 most impacted by quality and quantity, we will be, even
22 though the models, which are great and wonderful things,
23 there will be impacts. And I think that's very
24 necessary that the water get back there. I think that
25 water should be allocated back to the water companies

H42-2

H42-3

H42-2 An amendment regarding the purveyor of M&I water is a matter for consideration by Kennecott and Jordan Valley Water Conservancy District.

H42-3 Refer to the Response to Comments H42-1 and H42-2, above.

H42-4

.1 who are there, particularly if they can qualify as one
2 of the member agencies. And if not, there should be a
3 provision so that they can get it back to the affected
4 area. Now, if that doesn't happen, then I'll have to
5 say, "Well, wait a minute. I'm not sure that the Trustee
6 has met the obligation under the Consent Decree." It
7 almost comes to the point of being arbitrary and
8 capricious if the water doesn't get back to the affected
9 area. And I think we have talked about this before and
10 I appreciate the work. I have a lot more things I could

H42-5

11 say. I'm concerned about the environmental aspects of
12 the salt base, going to get back into the Great Salt
13 Lake. That gives me great concern. I would ask the
14 Trustee to take a hard look, evaluate it, and see if it
15 really meets the consent proposal in spirit and in
16 letter and if it doesn't ask the Jordan Valley, since
17 this is their proposal, to modify it to do that. Thank
18 you very much.

19 DR. NIELSON: Thank you for those comments.
20 Richard Nielson.

H43

21 RICHARD NIELSON: I am Richard Nielson and I
22 am here as a well owner and also a concerned citizen.

H43-1

23 "To Whom it May Concern: I object to the lack
24 of response on the part of the Trustee to public
25 comments previously submitted in November 2003. I

H42-4 See the Response to Common Comment No. 11 regarding allocations of treated water.

H42-5 See Response to Common Comment No. 9.

H43-1 The Trustee and the staff of DEQ met numerous times with individuals and groups to discuss the proposal and answer questions. See the Response to Common Comment No. 1. The Comment Response Summary is being provided after the Trustee has reviewed comments, considered responses to comments, and determined her findings and conclusions. It will be provided to the public when the Trustee announces her decision regarding the Joint Proposal, Project Agreement, and 3-Party Agreement.

H43-2

1 object to the attempts to limit public input to only
2 those consequences arising from the plan envisioned by
3 Kennecott Copper and Jordan Valley Water Conservancy
4 District and supported by the Division of Environmental
5 Quality on how to deal with the Kennecott Copper
6 contamination problem.

H43-3

7 I object to the fact that there was no
8 allowance for input from the public in the initial
9 creation of the plans for dealing with the Kennecott
10 Copper contamination.

11 The current plan involves:

12 1. Creation of a depression in that portion
13 of the aquifer that is contaminated to prevent
14 horizontal spread of contaminants.

15 2. Pumping the contaminated water and
16 treating it to sell some of it for municipal supply.

17 3. Finding an acceptable method for
18 disposing of the highly contaminated waste water created
19 by the treatment process.

H43-4

20 4. Kennecott Copper's obligation in the pump
21 and treat process will end after 40 or 50 years. Jordan
22 Valley Water Conservancy District and the ratepayers
23 will be obligated to do the pump and treat process for
24 at least an additional 400-plus years.

25 Existing and Future Problems with the Current

H43-2 Consistent with the provisions of the Consent Decree, the Trustee is evaluating the proposal that has been presented to her by Kennecott and the Jordan Valley Water Conservancy District (JVWCD).

H43-3 See the response to Common Comment No. 1.

H43-4 See the Responses to Common Comments Nos. 12 and 13.

1 Plan:

H43-5

2 1. It is not a sustainable plan due to
3 insufficient natural recharge of groundwater resources
4 necessary to support the amounts to be pumped and
5 treated.

6 2. Maintaining a depression in the
7 contaminated portion of the aquifer under the present
8 and anticipated future conditions of adjacent declining
9 water table levels, created by surrounding
10 municipalities, will necessitate the perpetual decline
11 in the level of the water table in the contaminated
12 aquifer beneath the City of South Jordan. Eventually
13 land subsidence and all its negative consequences will
14 begin to take place in all areas involved in the
15 continual water table decline.

H43-6

16 3. Public ratepayers, who will be the
17 recipients of the treated water, will be required to pay
18 much higher rates for water because they alone will be
19 required to bear the burden for water treatment. The
20 polluter should be paying for treatment of the water
21 they contaminated, not the ratepayers.

H43-7

22 4. Kennecott Copper and Jordan Valley will
23 take away individual water rights under their own terms.
24 The only recourse for those who object to the loss of
25 their water rights will be through the court system.

H43-5 See the Responses to Common Comments 2, 6, and 10. The Technical Review Committee has evaluated groundwater data and modeling and will continue to monitor the aquifer throughout the 40-year period in order to avoid adverse impacts and bring the cleanup to a conclusion.

H43-6 See the response to Common Comment No. 11.

H43-7 The Consent Decree requires Kennecott and JWCD to have the water rights to implement the proposal. The Consent Decree does not resolve third party claims and water rights. See the Response to Common Comment No. 1.

1 5. Water for profit and loss of individual
2 water rights are the usual consequences that follow from
3 privatization of water resources. Jordan Valley and the
4 Department of Environmental Quality will be responsible
5 for these consequences if the Joint Proposal as
6 presently constituted is approved.

7 6. The usual justification for privatization
8 of water resources is to save ratepayers money. In this
9 case, at the expense of the public, the justification is
10 to clean up contamination created by a large corporate
11 polluter, even though they knowingly caused the
12 pollution.

13 7. Jordan Valley Water Conservancy is a
14 special service district and as such is a
15 quasi-government agency. Despite this fact it appears
16 that their goal is to ultimately gain control over all
17 water resources or at least the Southwest Salt Lake
18 Valley. Total resource control is also what happens
19 with privatization of water resources. Jordan Valley
20 Water Conservancy has already demonstrated
21 characteristics of a private corporation in their lack
22 of responsibility to the people through their alliance
23 with a corporate polluter and in support of an
24 inadequate clean-up plan and their participation in and
25 support of limiting public comment and lack of response

1 to previous public comment.

2 Conclusion: The clean up of the contamination
3 and the restoration of the aquifer storage capacity is a
4 goal supported by everyone. The objections I am raising
5 to the current Joint Proposal are raised not to postpone
6 or prevent a timely start for the prevention of
7 contamination spreading and the commencement of the
8 restoration process, but to insist that the plan be made
9 better and sustainable for the benefit of all
10 stakeholders.

11 At present the Joint Proposal is designed to
12 favor the corporate polluter at the expense of the
13 citizens of Utah. The lack of response to the public
14 comment, the continuing attempts to limit the scope of
15 public comment and creation of a clean-up plan that does
16 not adequately protect the public interest are all
17 concerns that would seem to give the appearance that
18 Kennecott and Jordan Valley and the leadership of the
19 Utah State Department of Environmental Quality prefer
20 that the citizens of Utah remain uninformed as to the
21 details of the very negative short and long-term
22 consequences that will follow from the implementation of
23 the current Joint Proposal.

24 There is still opportunity for Jordan Valley
25 and the Department of Environmental Quality to

H43-8

H43-8 See the responses provided to comments H43-1 through H43-7 above.

1 demonstrate more concern for the citizens and the future
2 of Utah. There are alternatives that can be
3 incorporated without causing additional delay unless the
4 polluter refuses to accept appropriate responsibility
5 for their pollution. These alternatives will make the
6 Joint Proposal a better plan for everyone including the
7 polluter. These alternatives may initially cost
8 Kennecott more money but they represent a long term
9 investment with potential financial returns that will
10 also require more responsibility from Kennecott to deal
11 with the pollution they created.

12 The NRD Trustee and Jordan Valley should not
13 agree to a Joint Proposal until those alternatives are
14 included."

15 Thank you for your consideration.

16 DR. NIELSON: Thank you. I have one
17 individual who has indicated a desire to speak who is
18 not already on the list. Are there other individuals who
19 would like to speak? I see a few others. Let me suggest
20 that we'll take three, did I see two other hands? One,
21 two, three. Okay. Let me suggest this: Just to provide
22 that we take five minutes for each of the individuals
23 who has now indicated that they would like to speak,
24 then we'll take a break for five minutes, and if there
25 is anyone else that wants to talk we will come back and

1 then take any additional comments. And what I would
2 like to do is just ask the lady in the front row here if
3 she would like to come to the podium and if you would
4 please give your name and if you are representing
5 yourself or representing an organization, indicate that,
6 and I would ask you to keep your comments to five
7 minutes, please.

H44

8 MS. WILCOX: My name is Loretta Wilcox, I
9 live in Riverton and I was at that meeting in Salt Lake
10 and I asked them about the water, pollution of the
11 water, and they told us that they was going to go dig
12 down deeper for us, if our well didn't-- wasn't
13 sufficient for us. And I also asked them about the
14 fact-- the arsenic and stuff in the water. We lost two
15 registered Arabian stallions, two in a year. I mean
16 they had been drinking that water for 17 years. And I
17 talked to my vet and they come out and tested our well
18 and she said that she hadn't finished all of the stuff
19 yet, but we haven't been able to use the liver from our
20 sheep because of the spots on the liver. And she
21 figures that's from the water. And so I want to know
22 whether-- if they're going to pipe city water out to my
23 barn and all, who is going to have to pay for this kind
24 of stuff? And I want to know if I can prove that it was
25 the water that killed my horses, who is going to

H44-1

H44-1 These questions are being referred to Kennecott for its review. See the response to Common Comment No. 1 for processes to be used by Kennecott and JWCD under the Joint Proposal.

1 reimburse me? And there's people down the street that's
2 been drinking the water for a lot more years. But I
3 understand in my area is where they polluted more of the
4 wells.

5 Thank you.

6 DR. NIELSON: Thank you for those comments.
7 Okay. Representative Goodfellow is in the audience and
8 I initially took comments from the State elected
9 officials and I would like to suggest that I might give
10 you an opportunity, sir, to speak next and then we will
11 proceed with the other individuals who have asked for
12 time.

H45

13 REPRESENTATIVE GOODFELLOW: Thank you very
14 much. I wasn't going to speak but I think I shall,
15 first of all, to thank you for reopening to have more
16 public comment and I also applaud you for the proposal
17 now not to dump waste water into the Jordan River. I
18 also applaud you for being willing to study the selenium

H45-1

19 and other metal issues of the Great Salt Lake. I would
20 also encourage you to continue to do some studies of the
21 marsh lands, the duck clubs, because when the proposal
22 was to dump in the Jordan River there were a lot of
23 downstream users for irrigation, but primarily the duck
24 clubs, and the marshes and the birds. And there was
25 initial testing done at one of the duck clubs that show

H45-1 The work of the Great Salt Lake Water Quality Steering Committee will include these areas. The DEQ Division of Water Quality is also evaluating these areas as part of its Farmington Bay study.

1 an excessive amount of selenium and so I would hope that
2 you not only study the Great Salt Lake but you do some
3 studies and get some baseline data of the duck clubs as
4 well. And, again, I thank you for the decision and the
5 proposals that have been made because I think dumping in
6 the Jordan River and further polluting the marsh lands
7 and the downstream users was not a good solution to
8 this. And the reason I'm speaking is because no one was
9 here representing the duck clubs and so I'm not exactly
10 representing them but they were the ones that brought
11 issues to me in the first place and so I guess I can
12 speak for them. Thank you.

13 DR. NIELSON: Thank you very much. All right.
14 There was an individual over here that would like to
15 speak. If you would like to come to the podium and
16 identify yourself for the record, please.

17 GENE CANDELOT: My name is Gene Candelot. I'm
18 from Riverton. I am a well owner and I represent myself.
19 I basically have a comment that's in regards to one of
20 the comments that was made earlier and that was the 40th
21 West boundary line. Everybody east of that would be in
22 the Jordan Valley Water District responsibility to
23 resolve any problems with well owners and west of that
24 would be Kennecott. Paula made a comment that the reason
25 for that boundary was because Kennecott wasn't

H46

1 accountable for the shallow water contamination, that
2 was mostly farms. Is that correct, Paula?

3 MS. DOUGHTY: Yes.

4 MR. GANDELOT: We have data that says your
5 evaporation ponds contaminated the shallow aquifer in
6 large quantities. So I don't know why that boundary
7 line was established. That is only in one section. The
8 evaporation ponds were only the shallow aquifer. So my
9 comment is, I don't believe that borderline, or boundary
10 line is adequate. I don't think it was established
11 correctly because contamination by Kennecott of the
12 shallow aquifer has been accomplished. Thank you.

13 DR. NIELSON: Thank you very much, sir. I
14 said I wasn't going to comment but I am anxious in this
15 case to make a clarification because I don't want anyone
16 to leave tonight not understanding this. That boundary
17 line is for consideration of impacts to quantity, for
18 draw down. For impacts to the quality of water,
19 Kennecott is the responsible party to contact in any
20 case. I realize that there has been discussion, sir,
21 that you raised specifically in shallow aquifers. But I
22 want to emphasize that for quality impacts east or west
23 of that line, the process that has been defined is to
24 contact to Kennecott for quantity and draw down impact,
25 east of the line the contact will be the Jordan Valley

H46-1

H46-1 See the explanation provided below by Dr. Nielson as well as the Response to Common Comment No. 10.

1 and west of the line Kennecott.

2 There was a couple of individuals over here I
3 think who indicated a desire to speak. Yes.

H47

4 MR. PARKINSON: Hello. My name is Derrick
5 Parkinson. I'm here representing Lantz Consulting and
6 also myself as a resident of Salt Lake Valley.

H47-1

7 First, I would like to ask the Board to make
8 a comment as to whether-- or ask whether the Trustee
9 intends to sign a-- this document, making a decision
10 before responding to the comments made tonight? My next

H47-2

11 concern is over the Joint Proposal which seems to place
12 the requirement to treat on Jordan Valley; whereas, the
13 Consent Decree places it clearly on, the requirement to
14 treat clearly on Kennecott. My question is: Why that
15 burden has been shifted. Furthermore, my question is:

H47-3

16 Why this is a proposal presented by Kennecott and Jordan
17 Valley when Kennecott itself is required to deliver to
18 the purveyor water in a manner acceptable to the
19 Trustee. It seems that Jordan Valley should not be part
20 of this proposal, this proposal should come straight
21 from Kennecott. My next question is: Why only one

H47-4

22 purveyor has been considered? I would ask whether other
23 purveyors were considered and why none of those options
24 are being made available to the public.

25 As a point of clarification, I'm not certain

H47-1 The Comment Response Summary, including the comments from this public hearing, is being provided after the Trustee has reviewed comments, considered responses to comments, and determined her findings and conclusions. It will be provided to the public when the Trustee announces her decision regarding the Joint Proposal, Project Agreement, and 3-Party Agreement.

H47-2 See Response to Common Comment No 12.

H47-3 Under the Consent Decree Section (V.D.3) permits Kennecott to identify projects. The Implementing Agreements are between Kennecott and JWCD and among the Trustee, Kennecott, and JWCD. While the treatment is paid for by Kennecott, JWCD provides the funding needed for the portions of the project that would otherwise be developed, absent the contamination, in the normal course of developing and providing drinking water.

H47-4 The decision regarding the purveyor was made between Kennecott and JWCD and proposed to the Trustee. Other technologies have been reviewed. The Trustee is not aware whether other purveyors were considered.

H47-5

1 why the proposal is to the State Trustee and the USEPA
2 CERCLA Remedial Project Manager. I'm not certain why
3 those are both named there since it is my understanding
4 that this proposal was only going to address the
5 Trustee.

H47-6

6 Another question we have or comment is: Why
7 the Joint Proposal is groundwater extraction and
8 treatment remedial project in the Southwest Jordan
9 Valley when the Consent Decree considers clean up of the
10 Salt Lake Valley. I'm not certain what difference this
11 makes and I haven't seen what the differences between
12 the Salt Lake Valley and the Southwest Jordan Valley
13 were, if there is a difference. I would like that
14 clarified so that the public is aware as to whether this
15 Joint Proposal actually meets the scope of the Consent

H47-7

16 Decree. I am wondering if Jordan Valley is considered a
17 successor, assign of Kennecott's, since they are taking
18 on so much of Kennecott's responsibility here? Are they
19 becoming successors and assigns by entering contracts
20 with Kennecott such that they are bound by the Consent
21 Decree?

H47-8

22 My further comment is I wonder if Kennecott's
23 other companies that they are creating, Kennecott Land
24 Company, Oquirrh Mountain Enterprises, and the parent
25 company, Rio Tinto, whether these are also considered

H47-5 EPA and the State Trustee oversee various aspects of the cleanup. By working together, they maximize the efficiency and effectiveness of the cleanup.

H47-6 The contaminated groundwater plume underlies a region called the Affected Area. The Consent Decree requires that the Trust Fund be used to "restore, replace or acquire the equivalent of the surface or ground water resource for the benefit of the public in the Affected Area."

H47-7 JWCD responsibilities are defined in the Joint Proposal, Project Agreement, and 3-Party Agreement.

H47-8 JWCD is not a successor or assignee of Kennecott. Rio Tinto is the parent company of Kennecott. Kennecott Land Company and Oquirrh Mountain Enterprises are both subsidiaries of Kennecott Utah Copper Corporation (Kennecott). Also see Response to Common Comment No. 12.

H47-9

1 successors and assigns under the Consent Decree such
2 that they are bound and obligated under the Consent
3 Decree. My primary concern is that Kennecott is
4 emptying their company and will not be around when the
5 true costs of this pollution are borne by the public. I
6 would-- we would also request extension of time for
7 public comment on this Joint Proposal and the
8 modifications to the Joint Proposal. Joint Proposal I do
9 not believe this was adequately presented to the public
10 in a clear manner or published to the public in a clear
11 manner and all alternatives need to be addressed before
12 a proper decision can be made by a Trustee who has a
13 fiduciary responsibility to the public. I appreciate
14 your time. Thank you very much.

15 DR. NIELSON: Thank you. Are there other
16 individuals who wanted to speak at this time? Okay. As
17 I indicated earlier, we will take a break until 8:30.
18 We will resume the public hearing at that point. If
19 there is anyone else who wants to make comment and if
20 there is not we will conclude the hearing at that point.

21 [Recess].

22 DR. NIELSON: I have received the request of
23 Mr. Dansie and Mr. Solstad. Are there any other
24 individuals who are interested in providing public
25 comment on the record this evening? Okay. Seeing none,

H47-9 Extensions of time have been granted in the past. As indicated in response to Common Comment No.1, it is now time to proceed with the cleanup.

1 in the order that I've received the request I would like
2 to ask Ron Solstad, I'm sorry. Would you like to
3 comment? I'll put you down and you will be the third.

4 WHOEVER: Thank you.

5 DR. NIELSON: Ron Solstad, if you would come
6 forward to the podium so we can capture your comments on
7 the record. Identify yourself for the record and
8 indicate any affiliation or representation.

H48

9 RON SOLSTAD: Thank you. My name is Ron
10 Solstad and I come as an interested citizen and taxpayer
11 and I appreciate the hearing. I'm beginning to
12 appreciate the enormous responsibility that you hold as
13 a Trustee, Dr. Nielson, in making some decision
14 regarding this issue. As I left earlier with my two
15 boys, who are 10 and 16, I tried to explain things to
16 them in a way that might be understandable and also
17 included the scope of this being a part of the American
18 process. When I got to the-- to this rather large
19 document I made a comment to them that, unfortunately,
20 in our process sometimes the legal system will produce
21 something this large that would be very difficult for
22 most people to understand. This is something that I
23 would have a hard time understanding. And so as a
24 citizen and a taxpayer and realizing that water is one
25 of the most precious resources, maybe the most precious

H48-1

1 resource next to air that we have, I would hope that
2 there might be some way that this situation, whatever
3 the term of it is, proposal, the Utah NRD Trustee, et
4 cetera, could be introduced to the public in a more
5 understandable way. I think that if that happened you
6 would find there are more people like me who are
7 concerned as citizens and taxpayers. I want to just say

H48-2

8 that in support of the man who spoke earlier as a steel
9 worker, he had some very good comments. And the people
10 like Mr. Lantz I heard, I heard speak, he introduced
11 something that catches me, a concern as a taxpayer, that
12 yes, when Kennecott is gone and this problem remains,
13 are we as taxpayers going to foot the bill for a problem
14 that maybe should fall more in Kennecott's arena? So
15 those were some of my thoughts and I just thought that
16 the process was important enough that I should come back
17 and say: Please, please do your best as you review the
18 comments of the people who have talked earlier. They
19 all seem to have some very good things to say. Thank
20 thank.

21 DR. NIELSON: Thank you for your comments.
22 Mr. Dansie.

H49

23 MR. DANSIE: Thank you, Dr. Nielson, and
24 people, members. I had just a few more comments that I
25 felt were really important to make at this public

H48-1 See the Response to Common Comment No. 1.

H48-2 See the responses to comments provided in this public hearing by commenters at H39 and H41.

1 hearing. I just want to point out that I believe that
2 this document, the changes, I want to refer to them, Dr.
3 Nielson. The title Changes covers a myriad of things
4 that we're to cover, some CERCLA requirements, and other
5 EPA requirements that this Joint Proposal is proposing
6 to fulfill all of those requirements. That gives me
7 concern that we look those over very closely. In
8 addition, I would like to incorporate all the comments
9 that I made at the earlier hearings with this particular
10 hearing tonight so that none of them are overlooked. I
11 am concerned that we haven't got comments back. It's
12 not a pressure problem, that's not -- I'm not
13 criticizing -- but if we're close to making a decision,
14 we haven't heard comments back on what our last input
15 was. That gives me concerns. It gives me great concern
16 that if we're going to try to make a decision by the end
17 of August, I think there is some additional things that
18 would need to be considered. One of the things in the
19 Consent Decree talks about Kennecott shall not benefit
20 directly from the clean up of this water after putting
21 it back to beneficial use, however, the water has been
22 taken from the southwest quadrant. Kennecott has taken
23 their water rights and moved it to other areas and they
24 are going to build a 150-acre lake and yet we're going
25 to be de-watered just to the south and to the west of

H49-1

H49-2

H49-3

H49-1 The previous comments are included in the Comment Response Summary.

H49-2 The Comment Response Summary is being provided after the Trustee has reviewed comments, considered responses to comments, and determined her findings and conclusions. It will be provided to the public when the Trustee announces her decision regarding the Joint Proposal, Project Agreement, and 3-Party Agreement.

H49-3 See the Response to Common Comment No. 11.

1 there. I think that the Trustee has an obligation to
2 look, or the Trustee's legal counsel has an obligation
3 to look at the intent of the Consent Decree with regard
4 to whether Kennecott benefits from putting water for
5 future subdivisions when they don't clean up the water
6 and put the water back in the aquifers that are being
7 affected by this pump and treat and clean-up program. I
8 think that's a major element of the Consent Decree that
9 gives me great concern. The other two issues that I

H49-4

10 just want to reiterate a little bit because they were
11 made in the early comments and that's the illegal
12 pumping of acid that took place in the 1980s that caused
13 the plume to move south of Herriman. I don't think it
14 has been adequately explained to me. And the other

H49-5

15 thing, that potential leakage of the pond, whether that
16 was properly lined at the time that it was done and
17 whether there is more responsibility on this Consent
18 Decree.

H49-6

19 I would like to ask for additional time for
20 the public input because there are a lot of people that
21 unless they followed this for a long time are not up to
22 speed on what is happening here. I think this is a more
23 important environmental clean-up than the one we talked
24 about on the West Desert out there where they're
25 bringing environmental waste in. It hasn't had the

H49-4 See the response provided to your comment in the September 10, 2003 public hearing, in that Transcript at H9-3.

H49-5 See the response provided to a commenter who participated in the September 25, 2003 public hearing, in that Transcript at H24-3.

H49-6 See the Response to Common Comment No. 1.

1 notoriety probably because of the long use and the power
2 of the agency doing it. But I think that this is a
3 monumental thing, it's much closer to the Salt Lake
4 Valley, to the Wasatch Front. It might be there is much
5 more work to be done and I hope that the Trustee will
6 take a look and see that all those requirements that are
7 beyond the Consent Decree plus all that are within the
8 Consent Decree are fulfilled. If this goes into
9 December and we have a change in governors, I would hope
10 that the Trustee would stay on so that this can continue
11 on for whatever will be overlap and whoever has
12 responsibility, so if new people come into this they can
13 review the information that has been submitted. I don't
14 think we should make any quick decisions because of
15 Jordan Valley or Kennecott. I think that we need to be
16 most concerned with the citizens, the ratepayers, the
17 water drinkers, and the environmental aspects of this
18 clean-up on whether it really fulfills the intent that
19 was intended for. Thank you for the additional time and
20 I apologize for taking so long.

21 DR. NIELSON: Thank you very much. Mr.
22 Belchak. Identify yourself for the record.

23 MR. BELCHAK: Thank you. I'm Tom Belchak.
24 I'm a South Jordan resident. I first became aware of
25 this and some of the people know the history. I have

H50

1 drilled a well, I've got a yard, I've got a farm, drink
2 water. I began, formed a consulting group called Lance
3 Consulting Group. I apologize for any confusion that
4 there might be. My friend Wayne spells his L-A-N-T-Z,
5 and Lance is the last part of the word balance. You
6 just need to go like this, because decisions are
7 complex. So what we need to do is simply balance things
8 and go right back to the basics. What we have done at
9 Lance Consulting Group, we have never earned a dollar
10 yet so we haven't really advertised for clients because
11 we don't have any clients. We are the client. And I
12 have got that dog-eared Consent Decree which I finally
13 understood here about a week ago. I took a walk on the
14 Great Salt Lake where the water is way out, about a half
15 a mile or more, making it almost to Antelope Island, got
16 a little bit soggy, turned around and came back.
17 There's not enough water in our valley so we've got to
18 deal with a shortfall of water if it doesn't rain. All
19 the water that comes in is imported. If it doesn't
20 rain, we won't get water for storage. Our storage has
21 been impacted tremendously by this contamination. And a
22 personal item, the quality and quantity of water has
23 been impacted. We've got to watch it real carefully.
24 It's a very delicate balance. We must balance it or it
25 will not be balanced. There was a point brought up

1 about the subsidence. We want to be aware of that. I
2 wish it wasn't a legal issue. I wish it was just a
3 hydrogeologic issue but it's just a bunch of
4 mumbo-jumbo. Hydrogeology, micro-hydrogeology. You
5 can't see it. We may never have enough data, so if we
6 decided to go in our direction, what we want to do is to
7 achieve a balance and equal out plus or minus storage.
8 Our storage capacity is worth about a thousand dollars
9 an acre foot, if you want to put a number on just the
10 storage capacity. But I have asked two different
11 parties: What is the cost of the Reverse Osmosis
12 treatment? Well, we can make a calculation at Lance
13 Consulting Group if we have the cost of Reverse Osmosis
14 from the time the water comes in the wall to the time it
15 comes out of the wall in the treatment plant. All we
16 want is the numbers so we can do a calculation. I
17 received information from one party that it's
18 proprietary, which I discovered Benjamin Franklin uses
19 in his autobiography it's called, "I'm the queen, I will
20 decide." It's proprietary. The colonists had their
21 issues. The English said it was too democratic what
22 these people were trying to do. So my final point is we
23 had to hire a lawyer because I didn't know what to do.
24 So we know what to do. We will do it. And thank you for
25 your time.

H50-1

H50-1 Data for various cost projections have been provided in the Supporting Document to the Consent Decree, in various reviews by the Technical Review Committee, and in the Joint Proposal and Implementing Agreements. Other requests for specific financial information, including proprietary information, should be addressed to Kennecott and JWCD.

1 DR. NIELSON: Thank you very much for your
2 comments. Are there any other individuals here who want
3 to provide a comment on the record this evening?

H51

4 VOICE FROM AUDIENCE: I have a couple of
5 other questions. One of them is: Is the Trustee
6 anticipating the converting of the irrevocable letter of
7 credit to cash and if they would like to see the money
8 on that. And the second thing is in Section 5Ds it

H51-1

9 says: "That if Kennecott provides water according to
10 Sections 5D2 it will be eligible only for reduction the
11 then current amount of the letter of credit or; Two, if
12 the letter of credit has been converted to cash, reverts
13 in the funds resulting from conversion of the letter of
14 credit." The point I want to emphasize is the next line

H51-2

15 that says, "That no other portion of the trust fund be
16 subject to any adjustment or credit." It goes back to
17 my point, though, of reducing the interest rate of 7
18 percent to the PTI of one-and-a-half and the other
19 option is or the other section being divide the
20 irrevocable letter of credit into two separate letters
21 of credit. Thank you.

H51-3

22 DR. NIELSON: Thank you very much. Any other
23 comments? Seeing no requests, I will close the public
24 comment period or, I'm sorry, the public comment hearing
25 this evening and I want to thank all of those who have

H51-1 Under the Joint Proposal, the original irrevocable letter of credit (ILC) would be replaced with two new ILCs, Zone A ILC and Zone B ILC, each equal to one-half of the amount of the original ILC. As of January 20, 2004, the value of the existing ILC was \$49,382,800.

H51-2 Reductions in the two new letters of credit would be governed by different sections of the Consent Decree. Kennecott will seek full reduction of the Zone A ILC pursuant to the criteria established under Section V.D.2.b.i-iv of the Consent Decree.

Reductions in the Zone B ILC would be governed by Section V.D.4 of the Consent Decree, which authorizes the Trustee to spend the proceeds from the letter of credit that are "*not allocated for Kennecott projects*" to "*restore, replace or acquire the equivalent*" of the injured ground water resource. The Trustee will reduce the Zone B ILC as the District commits to deliver water from the Zone B plant.

H51-3 The requirement for a 7 percent interest rate applies only to the Letter of Credit established initially in accordance with the Consent Decree.

1 participated. Thank you for your comments and questions
2 and also thank you for working within the time limits to
3 provide an opportunity for everyone who wanted to speak.
4 Again, a reminder that this public comment hearing is
5 open through midnight on August 2nd on any comments that
6 are sent by e-mail, by mail, by fax, or delivered by
7 hand during business hours. The others, anything that
8 is dated or postmarked by midnight on August 2nd will be
9 accepted. I would encourage you if you have further
10 questions to contact us, either Doug Bacon or myself.
11 Certainly, if you have questions of Kennecott or Jordan
12 Valley, they are interested in also being able to
13 clarify questions and I would encourage you to contact
14 them. Again, thank you for your participation in the
15 process and for being here this evening to share your
16 comments and perspectives with us. The hearing this
17 evening is concluded.

18 [Hearing concluded at 8:45 p.m.]

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REPORTER'S CERTIFICATE

THE STATE OF UTAH]
 :
COUNTY OF SALT LAKE]

I, Peggy Grover, RMR, Notary Public in and for the State of Utah, do hereby certify that the foregoing transcript, consisting of pages 3 through 77, was stenographically reported by me at the time and place hereinabove set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

Dated this 15th day of July 2004.

Peggy Grover RMR
Notary Public, Salt Lake County

My Comission Expires:
December 7, 2007